

**THE MINUTES OF THE HOUSE STANDING COMMITTEE
ON
JUDICIARY**

Wednesday, June 14, 2006

10:30 a.m.

Room 308 House Office Building

The House Standing Committee on Judiciary was called to order by **Representative William Van Regenmorter**, Chair.

MEMBERS PRESENT: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith.

MEMBER ABSENT/EXCUSED: None.

Representative Bieda moved to adopt the minutes of the **May 31, 2006** meeting. The motion was supported by **Representative David Law**. There being no objection, the motion prevailed by unanimous consent.

Chairman Van Regenmorter laid **HB 6009** before the committee:

HB 6009 Elsenheimer	Crimes; drunk driving; third or subsequent drunk driving or drug driving conviction regardless of the number of years elapsed since prior conviction; increase penalties.
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TESTIMONY

Representative Elsenheimer, sponsor of HB 6009, explained his bill to the committee.

Terry Johnson, Antrim County Sheriff, representing the Michigan's Sheriffs Association, testified in support of the bill.

Dan Steiner, representing himself, testified and submitted written testimony in support of the bill.

Gary Naeyaert, representing the Michigan Ignition Interlock Provider Association, submitted a card in support of the bill and did not wish to speak.

Homer Smith, representing Mothers Against Drunk Driving, submitted a card in support of the bill and did not wish to speak.

Sgt. Matt Bolger, representing the Michigan State Police, submitted a card in support of the bill and did not wish to speak.

Charles Sherman, Clinton County Prosecutor, representing the Prosecuting Attorneys Association of Michigan, submitted a card in support of the bill and did not wish to speak. Mr. Sherman was available for questions.

Representative Rocca moved to adopt the substitute **(H-1)** to **HB 6009**. The motion was supported by **Representative Jones**.

The motion prevailed by a vote of **13-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico and Bieda,

Nays: None,

Pass: None.

Representative Bieda moved to report **HB 6009** with recommendation, as substitute **(H-1)**. The motion was supported by **Representative Condino**.

The motion prevailed by a vote of **13-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico and Bieda,

Nays: None,

Pass: None.

Chairman Van Regenmorter laid **HB 4861** before the committee:

HB 4861	Ball	Law enforcement; other; use of pepper spray or foam devices by certain law enforcement personnel; allow.
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TESTIMONY

Representative Ball, sponsor of HB 4861, explained his bill to the committee.

Sheriff Jon Wilson, representing the Shiawassee County Sheriff's Office, testified in support of the bill.

Sgt. Matt Bolger, representing the Michigan State Police, submitted a card in support of the bill and did not wish to speak.

Representative Jones moved to adopt the substitute **(H-1)** to **HB 4861**. The motion was supported by **Representative Newell**.

The motion prevailed by a vote of **12-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Stakoe, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico and Bieda,

Nays: None,

Pass: None.

Chairman Van Regenmorter offered the following amendment to **HB 4861 (H-1)**:

1. Amend page 4, following line 16, by inserting:

"Sec. 231. (1) Except as provided in subsection (2), sections 224, 224a, 224b, **224D**, 226a, 227, 227c, and 227d do not apply to any of the following:

(a) A peace officer of an authorized police agency of the United States, of this state, or of a political subdivision of this state, who is regularly employed and paid by the United States, this state, or a political subdivision of this state.

(b) A person who is regularly employed by the state department of corrections and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(c) A person employed by a private vendor that operates a youth correctional facility authorized under section 20g of 1953 PA 232, MCL 791.220g, who meets the same criteria established by the director of the state department of corrections for departmental employees described in subdivision (b) and who is authorized in writing by the director of the department of corrections to carry a concealed weapon while in the official performance of his or her duties or while going to or returning from those duties.

(d) A member of the United States army, air force, navy, or marine corps or the United States coast guard while carrying weapons in the line of or incidental to duty.

(e) An organization authorized by law to purchase or receive weapons from the United States or from this state.

(f) A member of the national guard, armed forces reserve, the United States coast guard reserve, or any other authorized military organization while on duty or drill, or in going to or returning from a place of assembly or practice, while carrying weapons used for a purpose of the national guard, armed forces reserve, United States coast guard reserve, or other duly authorized military organization.

(2) As applied to section 224a(1) only, subsection (1) is not applicable to an individual included under subsection (1)(a), (b), or (c) unless he or she has been trained on the use, effects, and risks of using a portable device or weapon described in section 224a(1).".

Representative Condino moved to adopt the amendment. The motion was supported by **Representative Bieda**.

The motion prevailed by a vote of **12-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Stakoe, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico and Bieda,

Nays: None,

Pass: None.

Representative Jones moved to report **HB 4861** with recommendation, as substitute **(H-2)**. The motion was supported by **Representative Stakoe**.

The motion prevailed by a vote of **12-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Stakoe, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico and Bieda,
Nays: None,
Pass: None.

Chairman Van Regenmorter laid **HB 4160** before the committee:

HB 4160	Pastor	Civil procedure; civil actions; limitation on recovery amount allowed in small claims suits; revise.
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TESTIMONY

Representative Pastor, sponsor of HB 4160, explained his bill to the committee and submitted handouts.

Donna Beaudet and **Lori Shemka**, representing the Michigan Court Administrators Association, testified in opposition to the bill.

Elizabeth Lyon, representing the State Bar of Michigan, submitted a card and written testimony in opposition to the bill.

Chairman Van Regenmorter laid **SB 1046** and **SB 1185** before the committee:

SB 1046	Cropsey	Crimes; other; right to self-defense and defense of others; clarify.
SB 1185	Jelinek	Civil procedure; civil actions; immunity from civil action for person who uses force in compliance with self-defense act; provide for.

TESTIMONY

John Lazet, from Senator Cropsey's office, testified in support of SB 1046.

Connie Burgess, from Senator Jelinek's office, testified in support of SB 1185.

Timothy Johnson, representing the Michigan Coalition for Responsible Gun Owners (MCRGO), testified in support of the bills.

David Felbeck, legislative analyst for the Michigan Coalition for Responsible Gun Owners (MCRGO), submitted written testimony in support of the bills.

Wayne Groth, representing the Great Lakes Shooting Sports Association, submitted a statement in support of the bills.

Representative Jones offered the following amendments to **SB 1046**.

1. Amend page 2, line 24, after "in" by striking out "an unlawful activity" and inserting "the commission of a crime".
2. Amend page 2, line 25, after "further" by striking out the balance of the subdivision and inserting "the commission of a crime".

3. Amend page 3, line 3, after “duties” by striking out the balance of the subdivision and inserting “in accordance with applicable law.”

Representative Jones moved to adopt the amendments. The motion was supported by **Representative Elsenheimer**.

The motion prevailed by a vote of **14-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico and Bieda,

Nays: None,

Pass: None.

Representative Jones moved to report **SB 1046** with recommendation, as substitute (**H-1**). The motion was supported by **Representative Newell**.

The motion prevailed by a vote of **11-3-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Adamini and Bieda,

Nays: Representatives Lipsey, Condino, and McConico,

Pass: None.

Representative Elsenheimer moved to report **SB 1185** with recommendation. The motion was supported by **Representative Jones**.

The motion prevailed by a vote of **11-4-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Adamini and Bieda,

Nays: Representatives Lipsey, Condino, McConico and Virgil Smith,

Pass: None.

Chairman Van Regenmorter laid **HB 6135** before the committee:

HB 6135	Baxter	Criminal procedure; sentencing guidelines; crime of sex offender failing to provide notice of proposed residence upon release from incarceration; provide in sentencing guidelines.
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TESTIMONY

Alicia Urbain, from the Republican Policy office, explained the bill to the committee.

Chairman Van Regenmorter offered the following amendment to **HB 6135**:

1. Amend page 2, following line 3, by inserting:
"Enacting section 1. This amendatory act takes effect 90 days after the date it is

enacted." and renumbering the remaining enacting section.

Representative Bieda moved to adopt the amendment. The motion was supported by **Representative Nofs**.

The motion prevailed by a vote of **11-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Nofs, Stakoe, Jones, Rocca, Lipsey, Condino, Adamini, Bieda and Virgil Smith,

Nays: None,

Pass: None.

Representative Bieda moved to report **HB 6135** with recommendation, as amended. The motion was supported by **Representative Schuitmaker**.

The motion prevailed by a vote of **11-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Nofs, Stakoe, Jones, Rocca, Lipsey, Condino, Adamini, Bieda and Virgil Smith,

Nays: None,

Pass: None.

Chairman Van Regenmorter laid **SB 1282** before the committee:

SB 1282	Gilbert	Criminal procedure; sentencing guidelines; sentencing guidelines for sale, distribution, or delivery of product containing ephedrine or pseudoephedrine by mail, internet, or telephone; enact.
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Representative Stakoe moved to report **SB 1282** with recommendation. The motion was supported by **Representative Nofs**.

The motion prevailed by a vote of **15-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith,

Nays: None,

Pass: None.

The committee returned to the consideration of **HB 4160**.

Representative Adamini moved to adopt the substitute **(H-1)** to **HB 4160**. The motion was supported by **Representative Nofs**.

The motion prevailed by a vote of **15-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith,
Nays: None,
Pass: None.

Representative Adamini offered the following amendment to **HB 4160 (H-1)**:

1. Amend page 1, line 6, after “exceed” by striking out “\$7,500.00” and inserting “\$5,000.00”.

Representative Adamini moved to adopt the amendment. The motion was supported by **Representative Bieda**.

The motion did not prevail by a vote of **7-8-0**.

UNFAVORABLE ROLL CALL:

Yeas: Representatives David Law, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith,
Nays: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer Jones and Rocca,
Pass: None.

Representative Stakoe moved to report **HB 4160** with recommendation, as substitute (**H-1**). The motion was supported by **Representative Newell**.

The motion prevailed by a vote of **10-4-1**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca and Lipsey,
Nays: Representatives Condino, McConico, Bieda and Virgil Smith,
Pass: Representative Adamini.

Chairman Van Regenmorter laid **SB 420** before the committee:

SB 420 Clark-Coleman Family law; parenting time; provisions regarding grandparent visitation after stepparent adoption; limit to parent of a deceased parent.

TESTIMONY

Gary Pollard, from Senator Clark-Coleman’s office, testified in support of the bill.

Gary Reed, representing the Family Law Section, State Bar of Michigan, submitted a card and a statement in support of the bill and did not wish to speak.

Ron Hicks, representing the Michigan Department of Human Services, submitted a card in support of the bill and did not wish to speak.

Representative Condino moved to report **SB 420** with recommendation. The motion was supported by **Representative Lipsey**.

The motion prevailed by a vote of **15-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith,

Nays: None,

Pass: None.

Chairman Van Regenmorter laid **HB 5800** before the committee:

HB 5800 Hansen Corrections; other; use of the Michigan youth correctional facility; revise.

TESTIMONY

Representative Goeff Hansen, sponsor of HB 5800, explained his bill to the committee and submitted handouts.

John Hurley, representing The GEO Group, testified in support of the bill.

Heidi Washington, representing the Michigan Department of Corrections, submitted a card in support of the bill and was available to speak.

Representative Elsenheimer moved to adopt the substitute (**H-3**) to **HB 5800**. The motion was supported by **Representative Jones**.

The motion prevailed by a vote of **15-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith,

Nays: None,

Pass: None.

Chairman Van Regenmorter offered the following amendment to **HB 5800 (H-3)**:

1. Amend page 2, line 7, after “**REQUIRE**” by striking out “**BOTH**” and inserting “**ALL**”.

Representative Newell moved to adopt the amendment. The motion was supported by **Representative Schuitmaker**.

The motion prevailed by a vote of **14-0-1**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, Bieda and Virgil Smith,

Nays: None,
Pass: Representative McConico.

Representatives Stakoe and David Law, offered the following amendment to **HB 5800 (H-3)**:

1. Amend page 2, line 4, after “**SECTION.**” by inserting “**IF ALL CONTRACTUAL FACTORS REGARDING POTENTIAL INMATES OR DETAINEES ARE EQUAL, THE PRIVATE VENDOR SHALL GIVE PREFERANCE TO THE ADMISSION OF INMATES OR DETAINEES SENT FROM AGENCIES WITHIN THIS STATE.**”.

Representative Stakoe moved to adopt the amendment. The motion was supported by **Representative David Law**.

The motion prevailed by a vote of **15-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith,

Nays: None,
Pass: None.

Representative Jones moved to report **HB 5800** with recommendation, as substitute (**H-4**). The motion was supported by **Representative Adamini**.

The motion prevailed by a vote of **14-1-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith,

Nays: Representative Nofs,
Pass: None.

Chairman Van Regenmorter laid **HB 5970** before the committee:

HB 5970 Van Regenmorter Administrative procedure; rules; certain policies concerning correctional facilities; designate and define as rules and clarify certain exemptions.

TESTIMONY

Bruce Timmons, from the Republic Policy office, explained the bill to the committee.

Heidi Washington, representing the Michigan Department of Corrections, submitted a card indicating neutrality on the bill and did not wish to speak.

Representative Jones moved to adopt the substitute (**H-1**) to **HB 5970**. The motion was supported by **Representative Condino**.

The motion prevailed by a vote of **15-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico, Bieda and Virgil Smith,

Nays: None,

Pass: None.

Representative Condino moved to report **HB 5970** with recommendation, as substitute (**H-1**). The motion was supported by **Representative Bieda**.

The motion prevailed by a vote of **14-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini, McConico and Bieda,

Nays: None,

Pass: None.

Chairman Van Regenmorter laid **HB 5967** before the committee:

HB 5967	Ball	Corrections; parole; revocation of parole of certain individuals convicted of certain crimes while on parole; require and establish procedures.
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TESTIMONY

Bruce Timmons, from the Republican Policy office, explained the bill to the committee.

Representative Ball, sponsor of HB 5967, submitted a card in support of the bill and was not available to speak.

Heidi Washington and John Rubitschen, representing the Michigan Department of Corrections, submitted a card in support of the bill and were available to speak.

Representative Condino moved to adopt the substitute (**H-1**) to **HB 5967**. The motion was supported by **Representative Schuitmaker**.

The motion prevailed by a vote of **13-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini and Bieda,

Nays: None,

Pass: None.

Representative Jones moved to report **HB 5967** with recommendation, as substitute (**H-1**). The motion was supported by **Representative Stakoe**.

The motion prevailed by a vote of **13-0-0**.

FAVORABLE ROLL CALL:

Yeas: Representatives Van Regenmorter, Schuitmaker, Newell, Nofs, Stakoe, Elsenheimer, Jones, David Law, Rocca, Lipsey, Condino, Adamini and Bieda,

Nays: None,

Pass: None.

There being no further business to come before the committee, the Chair adjourned the meeting at 12:16 p.m.

Representative William Van Regenmorter, Chair
House Standing Committee on Judiciary

Malika Abdur-Rashid

Committee Clerk

517-373-7256

1 Hour and 46 Minutes